

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: ENDOSCOPIC SURGICAL INSTRUMENT the specification of which is attached and/or was filed on _____ as United States Application Serial No. _____ or PCT International Application No. _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT international application(s) designating at least one country other than the United States, listed below and have also identified below, any foreign application(s) for patent or inventor's certificate, or any PCT International application(s) having a filing date before that of the application(s) of which priority is claimed:

| Country | Application Number | Date of Filing | Priority Claimed Under 35 U.S.C. 119 |
|---------|--------------------|----------------|--|
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

| Application Number | Date of Filing |
|--------------------|----------------|
| | |
| | |

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT International filing date of this application:

| Application Number | Date of Filing | Status (Patented, Pending, Abandoned) |
|--------------------|----------------|---------------------------------------|
| | | |

I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. **FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., CUSTOMER NUMBER 22,852**, Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Durner, Reg. No. 19,073; Brian G. Brunsvoold, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zoller, Reg. No. 27,680; Dennis P. O'Reilly, Reg. No. 27,932; Allen M. Sokal, Reg. No. 26,695; Robert D. Bajefsky, Reg. No. 25,387; Richard L. Stroup, Reg. No. 28,478; David W. Hill, Reg. No. 28,220; Thomas L. Irving, Reg. No. 28,619; Charles E. Lipsey, Reg. No. 28,165; Thomas W. Winland, Reg. No. 27,605; Basil J. Lewis, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Yoches, Reg. No. 30,120; Barry W. Graham, Reg. No. 29,924; Susan Haberman Griffen, Reg. No. 30,907; Richard B. Racine, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert E. Converse, Jr., Reg. No. 27,432; Clair X. Mullen, Jr., Reg. No. 20,348; Christopher P. Foley, Reg. No. 31,354; John C. Paul, Reg. No. 30,413; Roger D. Taylor, Reg. No. 28,992; David M. Kelly, Reg. No. 30,953; Kenneth J. Meyers, Reg. No. 25,146; Carol P. Einaudi, Reg. No. 32,220; Walter Y. Boyd, Jr., Reg. No. 31,738; Steven M. Anzalone, Reg. No. 32,095; Jean B. Fordis, Reg. No. 32,984; Barbara C. McCurdy, Reg. No. 32,120; James K. Hammond, Reg. No. 31,964; Richard V. Burgujian, Reg. No. 31,744; J. Michael Jakes, Reg. No. 32,824; Thomas W. Banks, Reg. No. 32,719; Christopher P. Isaac, Reg. No. 32,616; Bryan C. Diner, Reg. No. 32,409; M. Paul Barker, Reg. No. 32,013; Andrew Chanho Sonu, Reg. No. 33,457; David S. Forman, Reg. No. 33,694; Vincent P. Kovalick, Reg. No. 32,867; James W. Edmondson, Reg. No. 33,871; Michael R. McGurk, Reg. No. 32,045; Joann M. Neth, Reg. No. 36,363; Gerson S. Panitch, Reg. No. 33,751; Cheri M. Taylor, Reg. No. 33,216; Charles E. Van Horn, Reg. No. 40,266; Linda A. Wadler, Reg. No. 33,218; Jeffrey A. Berkowitz, Reg. No. 36,743; Michael R. Kelly, Reg. No. 33,921; James B. Mohrue, Reg. No. 33,971; Doris Johnson Hines, Reg. No. 34,629; Allen R. Jensen, Reg. No. 28,224; Lori Ann Johnson, Reg. No. 34,498; and David A. Manspeizer, Reg. No. 37,540 and. Please address all correspondence to **FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.** 1300 I Street, N.W., Washington, D.C. 20005, Telephone No. (202) 408-4000.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

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|---|----------------------|-------------|
| Full Name of First Inventor Richard Montalvo | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |

Listing of Inventors Continued on Page 2 hereof. Yes No

| | | |
|---|----------------------|-------------|
| Full Name of Second Inventor Ceasar Escobar | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address | | |
| Full Name of Third Inventor Curt Willem | Inventor's Signature | Date |
| Residence | | Citizenship |
| Post Office Address Florida, Miami 17585 SW 140 CT. | 2/2/01 US | |

Listing of Inventors Continued on Page 2 hereof. Yes No

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

January 2000

PATENT
Customer No. 22,852
Attorney Docket No.: 6530.0253-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Assistant Commissioner for Patents
Washington, D.C. 20231**

Sir:

DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.47(a)

I, Kathleen Cronin, hereby declare as follows:

1. I am employed by Boston Scientific Corporation as a Patent Secretary.
2. I understand that Messrs. Richard Montalvo and Ceasar Escobar are joint inventors along with Mr. Curt Willem in the above-captioned patent application.
3. Mr. Montalvo's last known address is 8333 Lake Drive, Apartment L301, Miami, FL 33166, and his last known telephone number is 305-436-0578. Mr. Escobar's last known address is 5112 NW 79th Avenue, Building 8, Apartment 308, Miami, FL 33166, and his last known telephone number is 305-513-9841.

4. I sent a package with a copy of the above-identified application and a Declaration and Power of Attorney to Mr. Montalvo's last known address via Federal Express on January 19, 2001; however, it was returned unopened. Federal Express informed me that the package was undeliverable. I attach a copy of the cover letter and the shipment label with a Federal Express tracking number for the package.

5. I also sent a package with a copy of the same materials to Mr. Escobar at his last known address via Federal Express on January 19, 2001; however, I have not received the package back from him.

6. I also have attempted to reach Messrs. Montalvo and Escobar by telephone on several occasions. I first attempted to call Mr. Montalvo at 787-873-2075 on February 21, 2001. I was informed by a telephone company information service that the telephone number for Mr. Montalvo had been changed to 305-436-0578, and I called that number. After the telephone rang for a period of time, it ended with a beep that sounded similar to an answering machine, and I left a message asking to return my call. The call was not returned. I also first attempted to call Mr. Escobar on that same date at the telephone number listed in paragraph 3 above. However, no one answered my call.

7. I then attempted to call Messrs. Montalvo and Escobar on June 7 and July 31, 2001. For both attempts, I left a message to Mr. Montalvo after a period of rings and a beep sound. The message has not been returned. No one answered the telephone calls to Mr. Escobar.

8. I then tried to call Mr. Escobar on July 31, 2001. A person answered the telephone for Mr. Escobar and informed me that Mr. Escobar no longer lived there. The person, however, could not provide me with forwarding information for Mr. Escobar.

9. I also tried to call Mr. Montalvo on August 14, 2001. Again, after ringing for a period of time, the telephone ended with a beep sound. I left another message asking to return my call. The message has not been returned.

10. Despite my repeated attempts to reach Messrs. Montalvo and Escobar, I have not been able to locate them to this date.

11. To my knowledge, Messrs. Richard Montalvo and Ceasar Escobar no longer work for Symbiosis Corporation, a company related to assignee Scimed Life Systems, Inc., or any other company related to assignee. I am currently unaware of the place of employment of either of these joint inventors.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Kathleen Cronin
Kathleen Cronin

November 13, 2001
Date